

United States District Court  
Western District of Washington At Seattle

Eileen Wallington,

Plaintiff,

No.

vs.

Holland America Line Inc., a Washington  
Cporation; Holland America Line-USA  
Inc., a Delaware corporation; Holland  
America Line N.V. dba Holland America  
Line N.V. LLC, a Foreign corporation;  
HAL Antillen N.V., a Curacao  
corporation; Holland America Line N.V.,  
a Curacao corporation,

Defendants.

Complaint For Damages  
For Injuries

**I. Jurisdiction**

1.1 This is an action by a passenger against the agents, owners, operators  
and charterers of a cruise ship vessel for injuries sustained on the ms Nieuw  
Amsterdam during a cruise that originated in Fort Lauderdale, Florida. Jurisdiction is  
vested in this court pursuant 28 U.S.C. § 1333, due to the admiralty and maritime  
nature of the claim.

COMPLAINT FOR DAMAGES - 1

Case No 16-

**WEBB LAW FIRM**  
Dba Seattle Maritime Attorneys  
225 106th Avenue North East  
Bellevue, Washington 98004  
Telephone 425.454.3800

1.2 Jurisdiction is also vested in this court pursuant 28 U.S.C. § 1332 as there is complete diversity of citizenship between the Plaintiff and Defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

## **II. Venue**

2.1 Venue is proper under 28 U.S.C. § 1391 as Defendants do business in the Western District of Washington with offices in Seattle. Venue also lies in this court pursuant to the terms of the Cruise Contract between Plaintiff and Defendants.

## **III. Parties**

3.1 The plaintiff Eileen Wallington is a resident of Campbell River, British Columbia, Canada.

3.2 The defendant Holland America Line Inc. is and at all times material hereto was a Washington corporation, has its principal place of business in Seattle, Washington, and operated the cruise ship Nieuw Amsterdam on which the subject incident occurred.

3.3 The defendant Holland America Line-USA Inc. is and at all times material hereto was a Delaware corporation, has its principal place of business in Seattle, Washington, and operated the cruise ship Nieuw Amsterdam on which the subject incident occurred.

3.4 The defendant Holland America Line N.V. DBA Holland America Line N.V. LLC is and at all times material hereto was a foreign corporation, has its principal

1 place of business in Seattle, Washington, and operated the cruise ship Nieuw  
2 Amsterdam on which the subject incident occurred.

3  
4 3.5 The defendant HAL Antillen N.V LLC, is and at all times material hereto  
5 was a Curacao corporation doing business in Seattle, Washington, was a subsidiary of  
6 Carnival Corporation & PLC, and was the owner and/or operator of the cruise ship  
7 Nieuw Amsterdam on which the subject incident occurred.

8  
9 3.6 At all times material, the Nieuw Amsterdam was operated by HAL  
10 (Holland America Line N.V.). "HAL" refers to the defendant Holland America Line  
11 N.V., a Curacao corporation, in its capacity as general partner of Cruiseport Curacao C.V.

12 3.7 All conditions precedent for filing and maintaining this action have been  
13 satisfied, have been waived, or do not apply.

14  
15 **IV. Liability: Negligence**

16 4.1 On or about January 7, 2015, plaintiff was a fare-paying passenger  
17 aboard the cruise ship Nieuw Amsterdam. At that time and place, the plaintiff was  
18 injured while attempting to transfer from the New Amsterdam to a tender. There were  
19 moderately rough seas, and there was no boarding ramp and no attendants. As  
20 plaintiff stepped from the ship toward the tender, a wave hit and the vessels separated  
21 and plaintiff almost fell down between the two vessels and in the ocean. Her  
22 travelling companion grabbed her arm and saved her, but her right arm broke in the  
23 process.  
24  
25  
26

1           4.2    At all times material, the defendants' employees and agents owed  
2 plaintiff an affirmative duty of reasonable care under the circumstances, or  
3 alternatively, a higher duty of care commensurate with their common maritime  
4 carrier/passenger relationship to plaintiff. Defendants' duty of care arose both from  
5 the maritime law of negligence and also as an implied contractual duty to their paying  
6 passenger.  
7

8           4.3    On or about January 7, 2015, Defendants, their agents and or  
9 employees negligently and carelessly breached their duty of care in one or more of the  
10 following ways, but in no way limited to:  
11

12               a.    Negligently failing to exercise that degree of care required to  
13 safeguard plaintiff during the tendering operations;  
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15               b.    Negligently tying up and or securing the tender and failing to  
16 provide assistance to plaintiff while boarding the tender from Nieuw Amsterdam;  
17

18               c.    Negligently failing to provide handrails and or other safety devices  
19 between the cruise ship and the tender during the subject tendering operations;  
20

21               d.    Negligently conducting the tendering operations in unsafe sea  
22 conditions without providing safe ingress to plaintiff while boarding the tender.  
23

24               e.    Negligently failing to warn or provide notice of reasonably  
25 foreseeable dangerous conditions and to protect Plaintiff from the unsafe hazards  
26 presented by maritime travel, dangerous conditions and seas.  
27

1           4.5     At all times material, defendants knew or should have known of the  
2 dangerous conditions causing Plaintiff's accident and did not take proper corrective  
3 measures and or provide proper warnings, assistance and or instructions to plaintiff  
4 with regard to the reasonably foreseeable damager.

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6           4.6     The negligence of the defendants was the direct and proximate cause of  
7 plaintiff's injuries.

8  
9           4.7     At all times material, plaintiff was acting with due care for her own safety.

10                               **V. Damages**

11           5.1     As a direct and proximate result of defendants' negligence, plaintiff  
12 suffered serious bodily injuries, including but not limited to her right shoulder and arm,  
13 all resulting in pecuniary and other compensable losses, including significant past and  
14 future medical expenses, wage loss, impairment of future earnings or earning  
15 capacity. Plaintiff will continue to suffer such damages in the future.

16  
17           5.2     As a direct and proximate result of defendants' negligence, plaintiff  
18 suffered physical and emotional injuries, including but not limited to, permanent  
19 physical impairment, disfigurement, pain, suffering, disability, limitations and loss of  
20 enjoyment of life in the past, and plaintiff will continue to suffer such injuries in the  
21 future. Further, these injuries proximately caused plaintiff to lose the benefit of her  
22 cruise vacation resulting in additional transportation costs. She also incurred travel  
23 expenses to medical appointments, household assistance and other out of pocket  
24 costs and damages all in amounts to be proven at the time of trial.

**WHEREFORE**, plaintiff reiterates and incorporates each and every allegation,

- a. For general, special, incidental, general and consequential damages sustained and to be incurred as the direct and proximate result of the acts and omissions of the Defendants and or their agents, employees and all other persons or entities which may be vicariously liable;
- b. For all expenses of health care providers, past, present and future;
- c. For punitive damages as may be permitted under applicable law;
- d. For prejudgment interest on the award;
- e. For Plaintiff's taxable costs of suit;
- f. For post-judgment interest and other relief allowed by the Court.

**DATED this 30th day of December, 2015.**

S/JOHN W. MERRIAM

John W. Merriam, WSBA # 12749  
4005 20<sup>th</sup> Avenue West, Suite 110  
Seattle, WA98199  
Telephone 206.729.5252  
Facsimile 206.729.1012  
E-mail: [john@merriam-maritimelaw.com](mailto:john@merriam-maritimelaw.com)  
Attorney for Plaintiff